<u>REMARKS</u>

Claims 2 - 8, 31 - 36, 38 - 44, 46 - 47, and 50 - 55 are pending. Claim 55 has been added. Claims 6, 34, 42, 44, 46, 47, and 50 - 54 have been amended. No new matter has been introduced. Reexamination and reconsideration of this application are respectfully requested.

In the February 8, 2005 Office Action, the Examiner objected to claims 44, 46, 47, and 50 as being dependent upon a rejected base claim, but indicated that claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants have rewritten claims 44, 46, 47, and 50 in independent form including all of the limitations of the base claims and intervening claims. Applicants respectfully submit that claims 44, 46, 47, and 50 are in condition for allowance.

In the February 8, 2005 Office Action, the Examiner rejected claims 2 - 8, 31 - 36, 38 - 43, and 51 - 54 under 35 U.S.C. §103(a) as being unpatentable over U.S. Published Patent Application No. 2001/0032336 A1 to Kaufman et al. ("the Kaufman reference"). This rejection is respectfully traversed.

The applicants appreciate the Examiner's willingness to discuss this office action in a phone interview on Tuesday, April 26, 2005, and wish to thank Examiner Neeven Abel Jalil for her time. Based on the interview with the Examiner, applicants have amended or rewritten the claims to distinguish the invention over the cited Kaufman reference.

Independent claim 52 recites (with emphasis added):

An automatic user preference detection computer system, comprising:

a preference determination module, independent of a user computing device, to determine a preference profile for a user of a media content distribution source, **the preference profile being based on previously determined media scores for the user and local media content files determined by the performance determination module scanning a disk drive of the user computer device to determine the local media content files stored on the user computing device;**

a database, independent of the user computing device, to store the preference profile for the user of the media content file distribution source;

a score calculation module, independent of the user computing device, to determine a score for a media content file distributed to the user by the media content file distribution source, wherein the score is calculated based on a comparison of a length of time in which the user allows the media content file to be played at the user computing device relative to a total length of the media content file; and

a processing module, independent of the user computing device, to modify the preference profile based on the score to create a new preference profile, **wherein the processing module further selects a second media content file to transmit individually to the user computing device based on the new preference profile.**

The Kaufman reference does not disclose, teach, or suggest the automatic user preference detection computer system of claim 52, as amended. The Kaufman reference is directed to a system for broadcasting program content via a broadcast transmitter including one or more sources of program content. The Kaufman reference discloses having an Internet access device 931 coupled to an A/V (media) player 933 that is used to listen or view an audio file. If a media player 933 is utilized, the user may send an audio/video program request to program content sources 957 (which may occur from the web access device 931 through an Internet connection 921 to any of the media servers 957). This same Internet connection 921 is used to send the audio/video broadcast content to the media player 933. A plug-in 945 of the media player 933 sends statistical data elements information via the Internet to the system 937 for storage in the statistical database 965. A ratings system plug-in 947 also allows an

individual listening or watching a certain feed to qualitatively ran relative aspects of that audio / video feed. A user can select or upload an introduction that the user has produced by the system for an audio / video feed. The user can also upload an audio or video file. *(Kaufman, paragraphs [0012 - 0017]).*

At the system 937, a processor 969 takes all the statistical data elements that are received and applies the algorithms and rules from the memory 973 and generates a schedule of program content to be broadcast via transmitter 939 in real time. The contents comes from a variety of sources including a digital audio streaming server 905, a real audio web server 907, a netshow web server, a multimedia streaming server 911. *(Kaufman, paragraphs [0020 - 0021])*

This is not the same as an automatic user preference detection computer system including a preference determination module, independent of a user computing device, to determine a preference profile for a user of a media content distribution source, the **preference profile being based on previously determined media scores for the user and local media content files determined by the preference determination module scanning a disk drive of the user computing device to determine the local media content files stored on the user computing device.** It is not the same because the Kaufman reference is disclosing that a plug-in (software program) 945 of the media player gathers statistical information (such as how long a user listened/viewed a program content stream or how many links the user executed within the stream file) and sends this information to the system 937 for storage in the statistical database 965, which is different than a **preference determination module scanning a disk drive of the user computing device.** In the case of the Kaufman

reference, the plug-in module in the media player, which is connected or coupled to the user computing device, is gathering info of what is being streamed to the media player, whereas claim 52 recites that a preference determination module scans a disk drive of the user computing device to determine the local media content files stored on the user computing device. In other words, the Kaufman reference is keeping track on what is being played on the media player coupled to the user computing device and not scanning a hard disk of the user computing device.

This plug-in module then sends the information to a statistical database which utilizes the statistical plug-in info to generate a schedule of program content. The statistical database also does not **scan the hard drive to determine the local media content files stored on the user computing device**. Accordingly, applicants respectfully submit that claim 52, as amended, distinguishes over the Kaufman reference.

Independent claim 52 further distinguishes over the Kaufman reference. The Kaufman reference does not disclose, teach, or suggest an automatic user preference detection computer system including a processing module, independent of the user computing device, to modify the preference profile based on the score to create a new preference profile, **wherein the processing module further selects a second media content file to transmit individually to the user computing device based on the new preference profile**. Instead, the Kaufman reference discloses a system where a processor takes all the statistical data elements it has received and applies the algorithms and rules and generates a schedule of program content to be broadcast via transmitter 939 via RF in real time. *(Kaufman, paragraph [0020])*. This is not the same

as claim 52, as amended, because the Kaufman reference's broadcast schedule is for

a number of users (i.e., the meaning of broadcast) so there is **no selecting of a media**

content file for a single user, as recited in claim 52. Further, the Kaufman broadcasts

the scheduled content via a transmitter utilizing RF transmission which is not

transmitting individually to a user computing device, as is recited in claim 52.

Accordingly, applicants respectfully submit that claim 52, as amended, distinguishes

over the Kaufman reference.

Independent claims 53 and 54, both as amended, recite limitations similar to

claim 52, as amended. Accordingly, applicants respectfully submit that claims 53 and

54 distinguish over the Kaufman reference for reasons similar to those discussed above

in regard to claim 52.

Claims 2 - 8, 31 - 36, 38 - 43 depend, indirectly or directly, from independent

claims 52, 53, and 54, respectively. Accordingly, applicants respectfully submit that

claims 2 - 8, 31 - 36, and 38 - 43 distinguish over the Kaufman reference for the same

reasons as those discussed above in regard to claim 52.

Claim 51 distinguishes over the Kaufman reference. Claim 51, as amended,

recites:

> An automatic user preference detection computer system,
> comprising:
> a preference determination module, independent of a user
> computing device, to create an initial preference profile for a user of a
> media content distribution source, the preference profile being based on
> the user's answers to preliminary questions submitted to the automatic
> user preference detection system and a determination of local media
> content files stored on the user computing device, wherein the
> **determination of the local media content files stored on the user**
> **device is determined when the preference determination module**
> **scans a disk drive of the user computing device;**
> a database, independent of the user computing device, to store the

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initial preference profile for the user of the media content file distribution source; and

a processing module, independent of the user computing device, to select a media content file to distribute to the user based on the initial preference profile and the time of year.

As discussed above in regard to claim 52, the Kaufman reference does not disclose that a preference determination module **scans a disk drive of the user computing device** to determine the media content files stored on the user computing device. Further, there is no disclosure in the Kaufman reference that a second media content file for the user computing device is selected based on both the initial preference profile and **the time of the year**, e.g., Christmas time. Accordingly, applicants respectfully submit that claim 51, as amended, distinguishes over the Kaufman reference.

Claim 55 depends on claim 51. Accordingly, applicants respectfully submit that claim 55 distinguishes over the Kaufman reference for the same reasons as those discussed above in regard to claim 51.

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Applicants believe that the foregoing amendments place the application in condition for allowance, and a favorable action is respectfully requested. If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call either of the undersigned attorneys at the Los Angeles telephone number (213) 488-7100 to discuss the steps necessary for placing the application in condition for allowance should the Examiner believe that such a telephone conference would advance prosecution of the application.
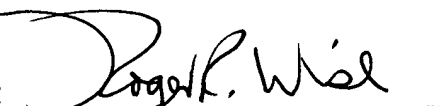
Respectfully submitted,

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